

VERMONT TRANSPORTATION BOARD MEETING OCTOBER 6, 2022

Board Members Present:

David Coen, term expires 2/28/24
Richard Bailey, term expires 2/28/24
Pam Loranger, term expires 2/28/25
Philip Zalinger, term expires 2/28/25
Tim Hayward, term expires 2/28/23
Wendy Harrison, term expires 2/28/25
Mark Nicholson, term expires 2/28/25

Board Members Absent:

none

Others Present:

John Zicconi, Board Executive Secretary
Ron Shems, Board Attorney
John Dumville, Royalton Selectboard
Trini Brassard, VTrans Deputy Director
Leslie Welts, Assistant Attorney General
Katelyn Krysia, NECR
Charles Hunter, NECR
Shayne Bocash, NECR
Brett Briggs, NECR
Shirley Jefferson, VT Law School Vice President
Rod Smolla, VT Law School President
Amanda Di Dio, VT Law School Student Council
Ashley Ziai, VT Law School Director of Student Affairs
Daniel Lee, VT Law School Student
Pamela Vesilind, VT Law School Faculty
Angie Campbell, Royalton Resident
A number of unidentified Law School Students and Royalton Residents

Call to Order:

Chair David Coen called the October 6, 2022 meeting to order at 10 a.m., which was held at the Chase Community Center on the Vermont Law School campus.

1. NEW BUSINESS

1.1 Welcome New Board Member Mark Nicholson

Board members welcomed new Board member Mark Nicholson who was appointed by Governor Scott to serve until February 28, 2025.

1.2 Review/Approve Minutes of the July 27, 2022 Meeting

On a motion by Mr. Hayward seconded by Ms. Loranger, the Board unanimously voted to approve the minutes of the July 27, 2022 Board meeting as submitted.

1.3 Board Per Diem Increase Discussion

Mr. Zicconi informed the Board that the Legislature this past session passed Act 134 which in part allows Boards like the T-Board to request that its %50 per day per diem be increased. Justification for an increase must be provided with any such request, which is due October 21, 2022. The proposed increase would then be vetted by the Administration and possibly submitted to the Legislature in 2023 for approval.

After some discussion, the Board, which determined that member per diems have been set at \$50 since at least 1985, voted to instructed Mr. Zicconi to seek a per diem increase to \$100 per day to 1) adjust for inflation since 1985 and 2) to help provide better incentive to working Vermonters to make it more affordable to volunteer time to serve on the Transportation Board. The vote was unanimous with Ms. Harrison abstaining.

1.4 Site Visit to Two Royalton Railroad Crossings

The Board at 10:30 a.m. recessed to leave the building and conduct a site visit at two Royalton railroad crossings that are the subject of hearings beginning at 1 p.m.

1.5 TB-517 & TB 520 Royalton Railroad Crossing Petitions

Before opening the hearings, the Board allowed for public comments. Seven people spoke. Six were members of the Vermont Law School community, including School President Rod Smolla and school Vice President of Government Relations Sherley Jefferson. Others who spoke included students Daniel Lee and Amanda Di Dio, as well as faculty member Pamela Vesilind and Ashley Ziai, VT Law School Director of Student Affairs. Royalton resident Angie Campbell also spoke. All seven spoke in favor of the town's petition to improve safety at DOT Railroad Crossing No. 247541M along Stearns Road in the Town of Royalton by installing lights and bars. The crossing in 2021 was the scene of a fatal crash when a train hit a car driven by Vermont Law School student Thomas Fennell, killing Mr. Fennell.

The Board opened the hearing by taking testimony on TB-517, a petition by the Town of Royalton to permanently close DOT Railroad Crossing No. 247539L at Railroad Mile Post No. 30.97. The town temporarily closed the crossing several months ago.

Royalton Selectman John Dumville told the Board that the town's road foreman has wanted the closing for a long time as plowing the crossing in the winter is nearly impossible. Mr. Coen said he did not believe the single Jersey barrier that is currently in place. Mr. Dumville said the town was willing to place additional barriers. Ms. Harrison asked about possible additional roadway blockage as ATVs and other smaller vehicles could negotiate around only Jersey barriers. Mr. Dumville said ATVs are not allowed on town roads, and once placed vegetation will grow around the barriers that should keep smaller vehicles at bay. NECR representative Shayne Bocash said that the railroad fully supports closing

the crossing, while VTrans Assistant Director Trini Brassard testified that the Agency also supports the crossing's closure.

The Board then moved to take testimony regarding TB-520, the Town of Royalton's petition to have the Board order the placement of lights and bars at DOT Railroad Crossing No. 247541 at Railroad Mile Post No. 31.49 along Sterans Road.

Mr. Bocash told the Board that all Amtrak public crossings along NECR's track in both Vermont and New Hampshire are scheduled, starting in the spring, to have both lights and bars installed. NECR intends to use a standard design when installing this equipment. It plans to install the equipment at the Royalton crossing beginning in the spring and that NECR can commit to a finish date no later than September 1, 2023. Mr. Dumville said the Town of Royalton is OK with NECR's design and is willing to have its petition held in abeyance until that time to provide the railroad until then.

Ms. Brassard told the Board that no permits are needed to conduct the instillation so long as the construction stays within crossing's already disturbed area. Ms. Harrison asked about funding. Ms. Brassard said funding is already approved and purchase of the equipment has already been done. The work, however, cannot begin until spring as it will take close to that long for the necessary materials to be delivered. She said that VTrans also requests that the town's petition be held in abeyance until September 1, 2023 as the Agency sees no issues with meeting that deadline as all the materials have been ordered and a contractor to do the instillation has already been hired.

Mr. Coen closed the hearing and provided all parties and the general public two weeks to supply the Board additional written comments if they were so inclined.

1.6 TB-518 Winick Airport Hanger Rent Increase Dispute

On a motion by Ms. Loranger seconded by Ms. Harrison, the Board unanimously voted to appoint Board Member Phil Zalnger hearing officer for all prehearing matters in TB-518.

1.7 TB-519 John Hazen Lane Farm Crossing

On a motion by Mr. Hayward seconded by Ms. HARRISON, the Board unanimously voted to appoint Board Member Mark Nicholson hearing officer for all prehearing matters in TB-519.

1.8 Executive Secretary's Report

Mr. Zicconi informed the Board that the parties in TB-457 Roback Farm Crossing Remand were asked to propose a joint schedule for pretrial issues but were unable to do so. As result, Mr. Coen, who is the Board-appointed prehearing officer will impose a schedule. Mr. Coen said he likely will direct the parties to submit pre-file testimony instead of engage in discovery as that will likely provide the Board with better information on which to proceed.

1.9 Aviation Training Update

Board Chair David Coen told the Board that he recently met with VTrans Secretary Joe Flynn to discuss the Agency's recent decision not to help supply training to the Board on aviation matters. He said Secretary Flynn had concerns about conflict of interest in providing such training, but that it would support funding to help the Board hire a consultant to supply such training.

Mr. Zicconi told the Board that he had solicited such a consultant with the help of VTrans, but that it's price to provide such training approached \$10,000 which both he and Mr. Coen thought was too high. He has since met with the consultant to help it refine its proposal with the hope that a new price can be agreed upon that was more reasonable. A new, modified proposal had not yet been submitted but is expected soon.

2. OLD BUSINESS

2.1 None

3. OTHER BUSINESS

3.1 Round Table

No one had anything to discuss.

4. ADJOURN

On a motion by Mr. Bailey seconded by Ms. Loranger, the Board unanimously voted to adjourn at 4:05 p.m.

Respectfully submitted,

John Zicconi
Executive Secretary

Next Board Meeting: TBD